

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

PROPOSAL TO AMEND THE LOCAL RULES

The full Court met in executive session on Thursday, September 23, 2004, and approved a proposal to include LR40.3.1 in the Civil Rules of this Court as follows (additions shown thus, and deletions shown ~~thus~~):

LR40.3.1 Direct Assignment of Cases: Bankruptcy Matters

(a) Referral to Bankruptcy Judges. Pursuant to 28 U.S.C. §157(a), any and all cases under Title 11 U.S.C. and any and all proceedings arising under Title 11 U.S.C. or arising in or related to any case under Title 11 U.S.C. are referred to the bankruptcy judges of this District.

(b) Assignment by Lot. Except as provided by sections c, d, e and f of this rule, each of the following shall be assigned by lot to a district judge:

(1) any motion (including a recommendation by a bankruptcy judge) for the withdrawal of the reference of a bankruptcy ("B") case or proceeding pursuant to 28 U.S.C. §157(d);

(2) any motion (including a recommendation by a bankruptcy judge) for the withdrawal of the reference of an adversary ("A") proceeding pursuant to 28 U.S.C. §157(d);

(3) any report and recommendation of a bankruptcy judge in a non-core proceeding filed pursuant to 28 U.S.C. §157(c)(1); and

Where assigned by lot, petitions for withdrawal of reference, appeals, motions for leave to appeal, and applications for writs shall be assigned using the Civil II assignment category and reports and recommendations using the Civil III assignment category.

(c) Direct Assignment in Bankruptcy ("b") Cases. If in a bankruptcy ("B") case or set of related bankruptcy ("B") cases a report and recommendation referred to in (b)(3) is filed pursuant to the prior direction of a district judge, the report shall be assigned directly to the calendar of that judge.

If in a contested matter within a bankruptcy ("B") case a motion for withdrawal of reference, or a report and recommendation, or an appeal, or a motion for leave to file an interlocutory appeal, or an application for a writ referred to in (b)(1) or (b)(2), respectively, is filed and a motion, report, appeal, motion for leave to file an interlocutory appeal, or application for a writ referred to in (b)(1) or

(b)(2), was previously filed in the same contested matter and assigned by lot to a district judge, then the subsequent motion, report, appeal, motion for leave to file an interlocutory appeal, or application for a writ shall be assigned directly to the calendar of that judge.

(d) Direct Assignment in Adversary ("A") Proceeding. If in an adversary ("A") proceeding a motion for withdrawal of reference, or a report and recommendation, or an appeal or a motion for leave to file an interlocutory appeal, or application for a writ referred to in (b)(1) or (b)(2), respectively, is filed and a motion, report, appeal, motion for leave to file an interlocutory appeal, or application for a writ referred to in (b)(1) or (b)(2) was previously filed in the same adversary ("A") proceeding and assigned by lot to a district judge, then the subsequent motion, report, appeal or motion for leave to file an interlocutory appeal, or application for a writ to be assigned shall be assigned directly to the calendar of that judge.

(e) Direct Assignment Following Remand. If in any bankruptcy ("B") case or in any adversary ("A") proceeding a district judge enters an order, opinion, or memorandum remanding a matter before that judge to the bankruptcy court for further proceedings, then any subsequent motion, report, motion for leave to file an interlocutory appeal, or application for a writ with respect to the matter remanded shall be assigned directly to the calendar of that judge.

(f) Relatedness. Where matters in the underlying bankruptcy case, or adversary proceedings associated with the underlying proceedings, or non-core proceedings associated with the underlying proceedings are pending on the calendars of two or more district judges, motions for relatedness may be filed to have the matters assigned to the calendar of one judge. The standards and procedures established by LR40.4 shall apply to such motions. For the purpose of determining the judge before whom such motion for relatedness should be filed, the term "lowest-numbered pending case" as used in LR40.4 shall refer to the petition initiating the bankruptcy case, the adversary proceeding, or the non-core proceeding with the earliest date and time of the filing with the bankruptcy clerk. The motion for relatedness shall include a listing of the dates and times of filing of each of the matters which movant is asking to be found related. Where a case is reassigned as related, it shall be treated on the same manner as a reassignment for relatedness pursuant to LR40.4 for the purposes of the equalization provisions of IOP11(b).

(g) Designation Sheet. The person filing the petition for withdrawal of reference, report and recommendation, appeal, motion for leave to appeal, or application for a writ shall complete the designation sheet required by LR3.1 and shall include on the sheet a list of any associated bankruptcy cases, adversary proceedings, non-core proceedings, appeals or motions for leave to appeal, or application for a writ from such proceedings previously assigned to one or more district judges.

* * * * *

COMMENT: The proposed rule will clarify the assignment of bankruptcy matters

By direction of the full Court and pursuant to 28 U.S.C. §207(b) regarding appropriate public notice and opportunity for comment, the Clerk is directed to: (a) cause the proposal to amend revised Local Rule 40.3.1 to be posted in the Courthouses at Chicago and Rockford, (b) cause notice of the proposal and requests for comment to be published in the *Chicago Daily Law Bulletin*, (c) cause

notice of the proposal and requests for comment to be posted on the web site for the United States District Court Northern District of Illinois, (d) indicate in such notice a final date for receipt of comments, which date shall be sixty days from the first date of publication in the *Law Bulletin*, (e) collect and distribute among the members of the Advisory Committee for Local Rules all comments received, and (f) following receipt of a copy of the report and recommendation of the advisory committee to distribute copies of the comments together with copies of the report and recommendation among the members of the Court for consideration at a regular meeting of the full Court.

ENTER:
FOR THE COURT

Chief Judge

Dated at Chicago, Illinois this _____ day of October, 2004